

**HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI  
AND**

**HON'BLE SRI JUSTICE G.V. SEETHAPATHY**

**Writ Appeal No.154 of 2007**

-

**Between:**

Sri Mallikarjunaswami Vari Devasthanam,  
Komaravalli Village, Cherial Mandal,  
Warangal District, rep., by its Executive Officer

... Appellant

**And**

Gollapally Bhagya Lakshmi and three others

... Respondents

-

**::JUDGMENT::**

-

Counsel for the appellant : Ms. G.Madhuri

Counsel for respondent No.1 : None

Counsel for respondent Nos. 2 and 3: Government Pleader for  
Endowments

Counsel for respondent No. 4 : Shri R. Prem Sagar

-

-

-

**February 15, 2007**

**Per G.S. Singhvi, CJ**

Feeling aggrieved by order dated 15-11-2006 passed by the learned Single Judge in WPMP No. 30230 of 2006 in Writ Petition No. 23705 of 2006, whereby he stayed the operation of G.O.Rt.No.4 dated 01.01.2004 issued by the Government of Andhra Pradesh restraining Gram Panchayat Komaravalli from collecting licence fee from the shops within a radius of 1 K.M. from Sri Mallikarjunaswami

temple, Sri Mallikarjunaswami Vari Deveasthanam, Komaravalli Village, Cherial Mandal, Warangal District has filed this appeal under Clause 15 of the Letters Patent.

We have heard Ms. G. Madhuri, learned counsel for the appellant, learned Government Pleader for Endowments and Shri Prem Sagar, learned counsel for respondent No.4 and perused the record.

Since the writ petition filed by respondent No. 1 questioning the legality and constitutionality of G.O.Rt.No. 4, dated 1-1-2004 issued by Government of Andhra Pradesh, Revenue (Endowments – II) Department is pending adjudication before the learned Single Judge, we do not consider it proper to express opinion on merits, because that is likely to prejudice the cause of the parties, but we do not have the slightest hesitation to express our prima facie view that the G.O. Rt impugned in the writ petition suffers from the vice of unconstitutionality and is ultra vires the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 inasmuch as it seeks to prevent the Gram Panchayat, which has been declared as a unit of self-government by the Constitution (73<sup>rd</sup> Amendment) Act, 1992, from levying tax and collect fees in accordance with the provisions of Article 243 (H) of the Constitution read with the provisions contained in Chapters II and III of the Andhra Pradesh Panchayat Raj Act, 1994 from the persons engaged in business within its geographical territory. In our opinion, neither the Gram Panchayat nor its representative has the locus to enter into a compromise or bargain the former's right to levy and collect taxes and fees. Therefore, the interim order passed by the learned Single Judge, which has the effect of staying the operation of G.O. Rt impugned in the writ petition cannot be termed as erroneous.

The argument of Ms. Madhuri that respondent No. 1 does not have the locus to challenge the compromise entered into between the management of the temple and the authorities of the Gram Panchayat, because she had herself represented to the Executive Officer of the temple on 17-2-2006 to give grant of Rs.6,00,000/- sounds a bit attractive but lacks merit and liable to be rejected.

As mentioned above, neither the Gram Panchayat nor any of its functionaries has the locus to bargain the constitutional right of the Gram Panchayat, which has been treated as a unit of self-government to levy and collect taxes and fees.

No other point has been argued.

For the reasons stated above, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No. 262 of 2007 filed by the appellant for interim relief is also dismissed.

**G.S. SINGHVI, CJ**

**G.V. SEETHAPATHY, J**

February 15, 2007  
ks